

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 65 OF 2004

SHRI KAPRU L.FAL DESSAI(DEC.) AND
ORS.,

....Petitioners

Versus

SHRI RAYU D. FAL DESSAI AND ORS.,

....Respondents

Shri Sudesh Usgaonkar, Advocate for the Petitioners.

Shri I.Aga, Advocate For Lrs Of 1 & 2, And For R.3 To 10, 15 and 16.

Coram:- D. D. SINHA, J.

Date:- 12th December, 2005

P.C.:

Heard Shri S. Usgaonkar, learned counsel for the petitioners and Shri I. Aga, learned counsel for the respondents.

2. The Writ Petition is directed against the Order dated 15th January, 2004 passed by Civil Judge S.D., whereby the application moved by the petitioners/plaintiffs under Order 6, R.17 of C.P.C. came to be dismissed.

3. Considered the contentions canvassed by the learned counsel for the petitioners. Perused the impugned order. In the instant case suit was filed by the petitioners in the year 1995 and the application for proposed amendment is filed in the year 2002 i.e. after the written statement was filed by the defendants. In the order, the trial Court has specifically stated that the suit property shown and described in the plaint is entirely different than the one which is shown in the application for amendment. In that view of the matter, the trial Court has come to the conclusion that the petitioners by way of amendment are introducing entirely a new case, that too at such a belated stage. It is well settled that by way of

amendment, altogether a new case cannot be introduced which is amenable to the different cause of action. In that view of the matter, the order impugned is just and proper. Writ Petition suffers from lack of merit. Same is dismissed.

D. D. SINHA, J.

sl.